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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/316,546

05/21/1999

JAY S. WALKER

WD2-99-012

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09/13/2005

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EXAMINER

KARMIS, STEFANOS

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/316,546

Applicant(s)

WALKER ET AL.

Examiner

Stefano Karmis

Art Unit

3624

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 24 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

Claims 1-58 of the instant application stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,341,353 issued to Herman et al. or under 35 U.S.C. 103(a) as unpatentable over Herman in view of U.S. Patent No. 6,161,059 issued to Tedesco et al. Applicant's remarks, submitted on 24 June 2005, ask the examiner to provide support for the cited sections of Herman using the provisional application. The Applicant further incorporates by reference a previous response, filed March 16, 2005, however that response is directed toward a Herman CIP, which was not relied upon. Therefore it is not considered. Nonetheless, the Examiner will point to specific passages from the relied upon provisional application that breathe light into the teachings of Herman in an effort to advance prosecution.

The provisional application discloses Trusted Agent Servers that manage a user's business affairs and provides consumers with access to smart receipts used for ongoing customer support and direct response product offerings keyed to those preferences (page 8). Direct response server enables the creation, delivery, and single-click redemption of direct response offers and can deliver one of at least three classic forms of traditional direct response: direct, generate a lead by transmitting a request to a merchant for additional information and by links to redemption or by being printed on paper and taken for redemption to an actual retailer (page 9). Continuing, smart receipts are the basis for after-market consumer care (page 9). A customer can then open a trusted agent and access the smart receipt, which contains a number of services. There are three types of business entities associated with the techniques of Herman: indirect, direct, and a hybrid of the two. In these techniques, the trusted agent server communicates to the business server using Limited Edition Digital Object (LEDO) system (page 12). Customers understand that what they are manipulating is a familiar instrument such as a receipt or a contractual offer (page 12). LEDOs provide efficient techniques to implement many of the legal and business issues of the instrument's affairs and can be verified over a network.

The cited passage of Patent 6,341,353, specifically column 47, lines 8-19 are supported by the provisional application. The citations references a Trusted Agent Server as a trusted intermediary between two parties. This is clearly taught in the provisional application as mentioned above. Further, the section teaches LEDO's used for a negotiation. As mentioned above, the provisional application teaches that LEDOs are verifiable and are efficient for legal and business issues. Such negotiations are a clear example of a legal and business issues.



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